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IN THE CIRCUIT COURT OF THE SECOND CIRCUIT
STATE OF HAWAII

DARLENE GOMES, PAULA JELSMA,
ANDERSON BYRNE, SAIF SHABAN,
DORIS DANIELA WHITE; MAUI
MEMORIES, INC., a Hawaii corporation,

Plaintiffs,

v.

HAWAIIAN ELECTRIC INDUSTRIES,
INC., a Hawaii corporation; HAWAIIAN
ELECTRIC COMPANY, INC., a Hawaii
corporation, HAWAII ELECTRIC LIGHT
COMPANY, INC., a Hawaii Corporation;
MAUI ELECTRIC COMPANY, LIMITED,
a Hawaii corporation; and DOES 1–200,
inclusive,

Defendants.

Civil Case No.
(Other Non-Vehicle Tort)

**COMPLAINT for Negligence, Trespass,
and Nuisance**

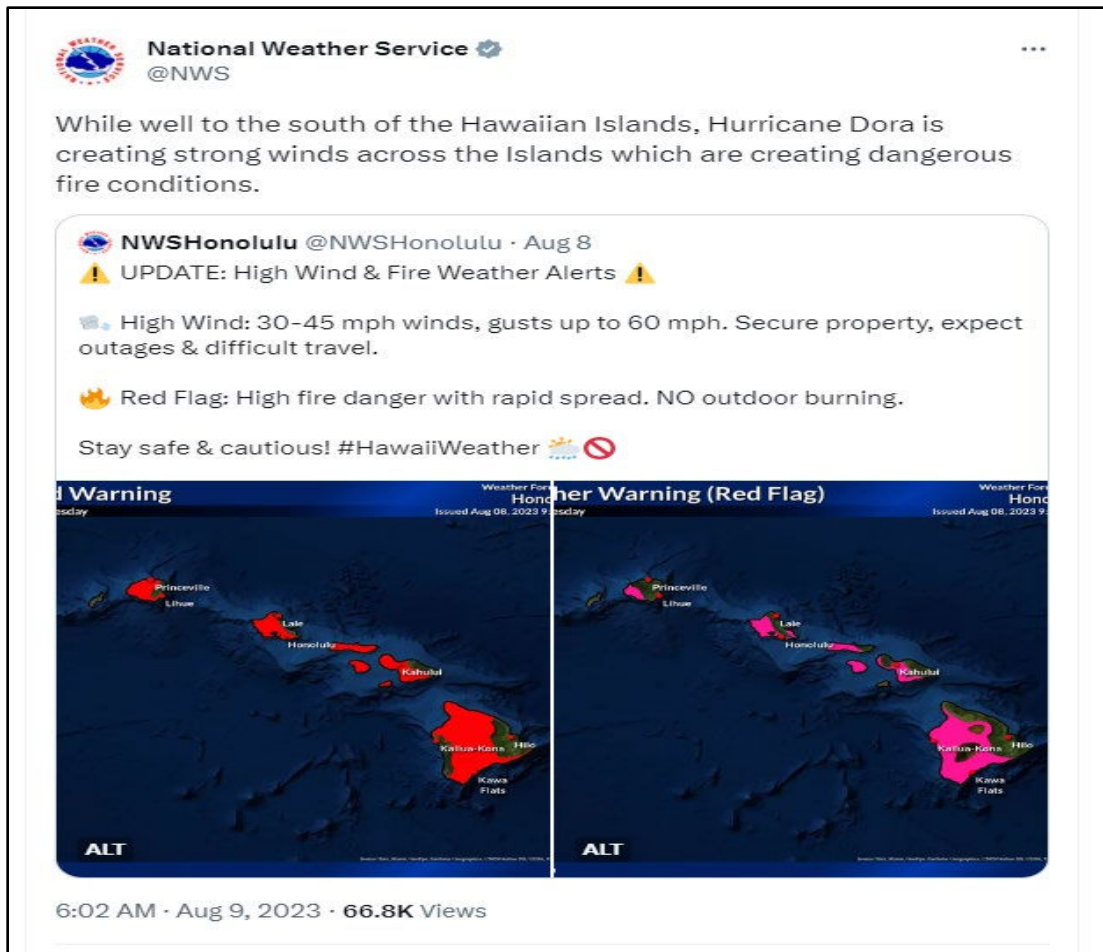
**Jury Trial Requested: Damages Exceed
\$150,000**

INTRODUCTION

1. This Complaint arises from the Lahaina Fire, a wildfire caused by Defendants powerlines in the historic town of Lahaina in West Maui on August 8, 2023.



2. In the days leading up to August 8, 2023, the National Weather Service issued High Wind and Fire Warnings. It repeatedly warned that these conditions would create the perfect environment for wildfires. The National Weather Service noted in a Tweet Sunday, August 6, 2023, that significant differences in atmospheric pressure between Hurricane Dora and the air north of Hawaii formed a pressure gradient over the islands which, when combined with dry conditions, posed a serious threat of fires as well as damaging winds. On Monday, August 7, 2023, at 4:42 a.m., the National Weather Service issued red flag warnings due to months of drought, low humidity and high winds. The National Weather Service predicted high gusts of wind up to 60 miles per hour. Maui fire officials also warned in an alert issued August 8, 2023, that “erratic wind, challenging terrain, steep slopes and dropping humidity, the direction and the location of the fire conditions make it difficult to predict path and speed of a wildfire.”



3. Defendants—Hawai'i Electric Light Company, Inc., Maui Electric Company, Limited, Hawaiian Electric Company, Inc., and Hawaiian Electric Industries (“Defendants”) that provide service to 95 percent of the state’s residents—knew about the extreme threat of fires prior to and on August 8th. They also knew and recognized that a public power shut-off or deenergizing powerlines is a proven method to prevent wildfires. Still, they left their powerlines energized. (This Complaint refers to that conduct collectively as “deenergizing.”) That indefensible decision was made even more so by (a) the nature of Defendants’ utility infrastructure, which was intended, designed, and constructed to pass electricity through exposed powerlines in vegetated areas; (b) Defendants’ aging infrastructure and deferred maintenance; (c) Defendants’ failure to maintain the proper tension in their lines to prevent sagging, which is proven to lead to fires; (d) Defendants’ failure to implement proper vegetation management programs to

protect their lines against trees crashing into them during high winds and (e) Defendants' prior knowledge that shutting down is the most effective safety measure to prevent wildfires.

4. On August 8, 2023, the strong dry winds from Hurricane Dora came as expected after months of drought. The winds predictably led to trees crashing into Defendants' powerlines, which predictably toppled igniting surrounding vegetation in communities across Maui, including Lahaina. Over 30 utility poles, some of which were energized, fell onto trees and roads, complicating evacuations.

5. Predictably, the resulting wildfire turned deadly as it spread throughout Lahaina and to other areas of Maui. It burned over 11,000 acres and catastrophically impacted the local communities to which it spread. The historic town, Lahaina has been destroyed. At least 80 people lost their lives in the fire, and the number is expected to rise as crews search scorched areas for survivors and those who lost their lives. Residents are reported to have suffered significant personal injuries, including, but not limited to, burns and severe smoke inhalation. Over 2,200 of structures have been damaged or destroyed. People's priceless possessions were incinerated. Their beloved pets and other animals suffered horrific deaths. For some, everything they had spent a lifetime earning, gathering, saving, and cherishing was lost. The community has suffered significant environmental and historical loss and impact, including smoke and ash resulting in air quality pollution and damage to significant monumental trees, plants, historical buildings. The fire devastated Lahaina, one of Hawaii's most historic cities and onetime capital of the former Hawaiian kingdom, which is now covered in ash and smoke. Lahaina was home to a 150-year-old Lahaina banyan tree, which has long mesmerized locals and tourists alike. Standing at 60 feet high and a quarter of a mile in circumference, it is believed among conservation experts to be the largest tree of its kind in the United States — and has now been scorched by the fires. And all because Defendants refused to deenergize their powerlines, maintain vegetation and their infrastructure.



6. Plaintiffs—all victims of the Lahaina Fire—now sue Defendants to recover damages for some of what they lost. They make the allegations in this Complaint based on personal knowledge; information and belief; and the investigation and research of counsel.

PARTIES

7. Plaintiffs are individuals and who, at all times relevant to this action, were homeowners, renters, business owners, residents, occupants, visitors located in the area impacted by the Lahaina Fire, and/or who had property located therein. Specifically, Plaintiff Darlene Gomes was the owner of a residence located in Lahaina that was destroyed by the Lahaina Fire. Plaintiffs Paula Jelsma, Anderson Byrne, and Saif Shaban were renters of residential properties that were damaged or destroyed in the fire, along with their personal property. Plaintiff Doris Daniela White was the owner of a business,

Maui Memories, Inc. located in Lahaina that was destroyed by the Lahaina Fire. Plaintiff Maui Memories, Inc. was a corporation located in Lahaina that was destroyed by the Lahaina Fire. The Lahaina Fire injured Plaintiffs personally, interfered with their personal rights and interests in their property, and damaged their property as described herein.

8. Plaintiffs have elected to join their individual lawsuits in a single action under rules of permissive joinder as set forth in Hawaii Rule of Civil Procedure 20(a). Plaintiffs do not seek class certification or relief on any collective basis. Instead, they seek damages and other remedies on an individual basis.

9. Defendant Hawaiian Electric Industries, Inc., is a for-profit, investor-owned utility company and, at all times relevant to this pleading, was a Hawaii corporation authorized to do, and doing business, in Hawaii, with its headquarters in Honolulu, Hawaii. At all relevant times to this pleading, Hawaiian Electric Industries, Inc. provided a utility, including electrical services, to members of the public in Hawaii, including those in Maui County through its subsidiaries, including Hawai'i Electric Light Company, Inc., and Maui Electric Company, Limited. It is the largest supplier of electricity in the state of Hawaii. It does regular, sustained business throughout Hawaii, including in Maui County. Its principal place of business is in Honolulu at 1001 Bishop Street, Suite 2900, Honolulu, HI 96813.

10. Defendant Hawaiian Electric Company, Inc., is a for-profit, investor-owned utility company and, at all times relevant to this pleading, was a Hawaii corporation authorized to do, and doing business, in Hawaii, with its headquarters in Honolulu, Hawaii. At all relevant times to this pleading, Hawaiian Electric Company, Inc. provided a utility, including electrical services, to members of the public in Hawaii, including those in Maui County. It is the largest supplier of electricity in the state of Hawaii. It does regular, sustained business throughout Hawaii, including in Maui County. Its principal place of business is in Honolulu at 820 Ward Avenue, Honolulu, HI 96814.

11. Defendant Hawai'i Electric Light Company, Inc., is, and at all times relevant to this pleading, a Hawaii corporation authorized to do, and doing business, in Hawaii, with its headquarters in Hilo, Hawaii. At all times relevant to this pleading, Hawai'i Electric Light Company, Inc. acted to provide a utility, including electrical services, to members of the public in Hawaii, including those in Maui County. It does regular, sustained business throughout Hawaii, including in Maui County. Its principal place of business is in 54 Halekauila St Hilo, HI, 96720. Hawai'i Electric Light Company, Inc. is a subsidiary or other entity wholly controlled by Hawaiian Electric Industries, Inc., the largest supplier of electricity in the state of Hawaii.

12. Defendant Maui Electric Company, Limited is, and at all times relevant to this pleading, a Hawaii corporation authorized to do, and doing business, in Hawaii, with its headquarters in Maui, Hawaii. Its principal place of business is in Maui County at 210 Kamehameha Avenue, Kahului, Maui, HI. At all times relevant to this pleading, Maui Electric Company, Limited acted to provide a utility, including electrical services, to members of the public in Hawaii, including those in Maui County. Maui Electric Company, Limited is a subsidiary or other entity wholly controlled by Hawaiian Electric Industries, Inc., the largest supplier of electricity in the state of Hawaii.

13. "Defendants" refers collectively to Hawaiian Electric Industries, Inc., Hawai'i Electric Light Company, Inc., and Maui Electric Company, Limited. Defendants supply electricity in Hawaii. They own, design, construct, operate, maintain, and repair powerlines and other equipment to transmit electricity to residents, businesses, schools, and industries in Hawaii, including in and around the ignition point for the Lahaina Fire.

14. The true names and capacities of defendants DOES 1 through 200 are currently unknown to Plaintiffs who, therefore, sue these defendants under these fictitious names pursuant to Hawai'i Rules of Civil Procedure, Rule 17. These defendants are each directly and/or vicariously responsible, in some manner, for the harms alleged herein. Plaintiffs are investigating the facts leading up to the Lahaina fires. If/when Plaintiffs

learn these defendants' true names and capacities, Plaintiffs will seek leave to amend this pleading accordingly.

15. Defendants are jointly and severally liable for each other's conduct pursuant to Hawai'i Revised Statutes section 663-10.9. Hawai'i Electric Light Company, Inc., and Maui Electric Company, Limited are wholly owned, and entirely controlled, by Hawaiian Electric Industries, Inc. Defendants' officers and management are intertwined. Therefore, Defendants are the agents, servants, employees, partners, aiders and abettors, co-conspirators, and joint venturers of each other.

16. No assignment or transfer of the claim, or of any part thereof or interest therein, has been made.

JURISDICTION & VENUE

17. This Court has subject matter jurisdiction over this civil action under Hawai'i Revised Statutes section 603-21.5.

18. This Court has personal jurisdiction over each Defendant either because Defendants are corporations created by or under the laws of this state, are domiciled in Hawai'i, are organized under the laws of Hawai'i, and/or maintain their principal place of business in Hawai'i, transact business in Hawai'i, perform work in Hawai'i, provide services in Hawai'i, caused tortious injury in Hawai'i, derive substantial revenue from services used or consumed in Hawai'i, and/or have interests in, use, or possess real property in Hawai'i. Plaintiffs allege that Defendants' acts and omissions within this state caused Plaintiffs to suffer injury within this state.

19. Venue in this Court is proper under Hawai'i Revised Statutes section 603-36(5) because Plaintiffs claims for relief arose in the County of Maui.

20. At all times relevant to this action, Plaintiffs and Defendants have been citizens of Hawai'i.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

A. Defendants have a duty to safely maintain and operate their electric utility infrastructures.

21. Defendants supply electricity throughout Hawai'i and in the County of Maui. They own, operate, maintain, and repair electric utility infrastructures that transmit electricity to residents, businesses, schools, and industries in Hawai'i, including in and around Lahaina.

22. Operating high-voltage electric equipment as part of an electric utility infrastructure carries inherent dangers. The inherent and heightened danger associated with the transmission and distribution of electricity through overhead powerlines in vegetated areas requires Defendants to exercise an increased level of care to protect the public and the communities in which their electric utility infrastructures operate. Moreover, Defendants have a level of expertise about the operation of an electric utility infrastructure far beyond that of a layperson and, as such, owe a heightened duty commensurate with this expertise.

23. Defendants have a duty to adequately operate, monitor, maintain, and repair their electric utility infrastructures to ensure that they do not cause fires. This duty includes deenergizing their powerlines during periods of critical fire risk to prevent fires and to allow first responders to safely access ignited areas to put out fires. Defendants' duty also includes maintaining the land and vegetation around their infrastructure and equipment to ensure that vegetation, objects, and structures will not come into contact with their electric utility infrastructures.

B. Defendants designed, constructed, used and maintained their utility infrastructure in a manner that would allow a fire to ignite.

24. Defendants designed their powerlines to transport electricity to its substations and from the substations to the public directly into their homes. The powerlines' circuitry and conductors were electrically a single and unified circuit that transmitted electricity.

25. Defendants designed, constructed, used, and maintained their utility infrastructure's system protection devices (which are used to respond to an overcurrent event) in a manner that would keep their powerlines energized for too long after a transmission line failure, allowing a fire to ignite. Defendants could have designed the system protection devices to shut off faster, but failed to do so because tripping the circuit costs time and money. Defendants' decision was a cost-saving one that allowed older, slower equipment to remain in place.

26. Defendants designed their powerlines to be uninsulated, bare, and/or uncovered conduit carrying high voltage electricity that posed an increased risk of igniting should they come into contact with vegetation or other electrical equipment. Defendants could have designed their powerlines to be insulated and covered, and therefore less likely to ignite vegetation, but failed to do so.

27. Defendants constructed their powerlines such that they traveled above ground using wooden poles, and left dry, overgrown vegetation below them. Defendants could have constructed their powerlines to travel underground, a request residents and energy experts have made many times, but Defendants ignored. Defendants also could have removed nearby vegetation entirely, but failed to do so.

28. Defendants designed and constructed their powerlines so that they would reenergize to soon after being deenergized. Defendants could have designed and constructed their powerlines with reclosers that operated more safely, but failed to do so.

29. Defendants had a responsibility to maintain and continuously upkeep their utility infrastructure, including their powerlines, and to implement vegetation management programs and protocols to ensure the safe delivery of electricity to the public. They failed to do so and allowed their infrastructure to age and deteriorate.

C. Defendants knew about the extreme fire risks and what to do to prevent wildfires during extreme weather conditions.

30. Defendants knew that deenergizing powerlines is an effective way to prevent wildfires during periods of elevated fire danger, including during high wind events.

Electric utilities have long used intentional temporary outages to prevent fires. In California, Oregon, Nevada and other states, downed power lines, sparks from transmission hubs, and other electrical-grid failures have started or spread some of the deadliest and most destructive blazes in U.S. history. That has prompted these states proactively to shut down power to communities when red-flag conditions arise. Defendants recognized that a power shut-off plan could be effective, especially after it reviewed what happened with California's 2018 Camp Fire, which killed 85 people. Last year, Defendants pointed to California's Public Power Shutoff Plan as a successful way to prevent wildfires when additional robust techniques are not yet in place.

31. Yet, when fire potential in and near Maui County was well above normal levels on August 6, and August 7, 2023, due in part to extreme drought conditions, dry brush, and high winds caused by Hurricane Dora passing on the South, Defendants kept their power lines active.

32. Starting on Sunday, August 6, 2023, the National Weather Service (the "Service") began issuing warnings about dangerous weather conditions and high winds for fires in Hawaii. The Service issued high wind warnings beginning on Monday, August 7, 2023 through late Tuesday night August 8, 2023. The Service advised winds of 25 to 45 miles per hour with localized gusts of more than 60 mph were expected for Maui, Molokai, Lanai, Oahu, Hawaii island and portions of Kauai. The Service and media warned that damaging winds could blow down trees and power lines. The Service issued a fire watch for the leeward portions across the state starting this morning through late Tuesday night due to the high winds and humidity being 40 to 45 percent during the afternoons and evening. The Service advised any fires that develop will likely spread rapidly.

33. On Monday, August 7, 2023, at 4:42 a.m., the Service issued a "Red Flag Warning" that continued until August 10 at 6:00 a.m. and predicted extreme winds and fire dangers. The Service issues a "Red Flag warning" when "warm temperatures, very low humidities, and stronger winds are expected to combine to produce an increased risk of

fire danger.”¹

34. On August 8, 2023, the Governor of Hawaii issued a proclamation relating to wildfires. The Governor stated that very dry conditions and strong and potentially damaging easterly winds caused by the passage of Hurricane Dora to the south of the State are contributing to the wildfire danger. The Governor directed the Director of Hawai'i Emergency Management and the Administrator of Emergency Management to take appropriate actions to direct or control, as may be necessary for emergency management, including issuing alerts, warning, notifications and activations, issue warnings and signals for alerts and any type or warning device, system, or method to be used in connection therewith, shut off water mains, gas mains, electric power connections, or suspension of other services, and issue mandatory evacuations.

35. Maui Fire officials warned in an alert issued August 8, 2023, that “erratic wind, challenging terrain, steep slopes and dropping humidity, the direction and the location of the fire conditions make it difficult to predict path and speed of a wildfire.”

D. Defendants’ actions predictably and inevitably led to a fire igniting on August 8, 2023.

36. Before August 8, 2023, Defendants knew that there was an extreme fire risk in in and near Maui County. They also knew that wildfires are on average ten times larger than other types of fires. Despite this, Defendants left their powerlines energized when the winds hit exactly as predicted. Defendants failed to deenergize their powerlines despite the National Weather Service’s warnings, and despite all the other information Defendants knew about the elevated risk of fire on that day.

37. Defendants’ failure to deenergize their lines on August 8, 2023, was even more egregious in light of their prior acknowledgement and the condition of their utility infrastructure. Defendants knew that (a) their utility infrastructure was intended, designed, and constructed to pass electricity through wooden poles and exposed powerlines

¹ National Weather Service, Red Flag Warning, *available at* <https://www.weather.gov/mqt/redflagtips> (last visited August 11, 2023).

in vegetated areas; (b) their aging utility infrastructure was intended, designed, and constructed with poorly designed system protection devices that reboot too quickly; (c) they had a history of improperly maintaining the line tension in their powerlines; (d) they failed to properly, safely, and prudently maintain the vegetation and land surrounding their electrical infrastructure and equipment and (e) they knew the surrounding vegetation was dry due to the severe drought.

38. When the high winds, with gusts reaching up to 60 miles per hour, came as predicted, the natural and ordinary consequences of Defendants' choices led to their powerlines falling and starting a brush fire on August 8, 2023, at 6:37 a.m. in the area of Lahainaluna Road. Given the predicted conditions (including wind speed and direction, topography, and the manner in which wildfires spread), the inevitable consequence of the ignited fires was the creation of a wildfire that spread to Plaintiffs' homes, properties and throughout Maui County completely destroying Lahaina.

39. The Lahaina Fire occurred because Defendants: (a) failed to deenergize their powerlines on August 8, 2023; (b) intended, designed and constructed their utility infrastructure to pass electricity through exposed powerlines in dry, vegetated areas; (c) failed to prudently inspect, maintain, and operate the electrical equipment in their utility infrastructure; and (d) failed to maintain the appropriate clearance area between its electrical equipment and surrounding vegetation.

40. The conditions and circumstances surrounding the ignition of the Lahaina Fire—including the nature and condition of Defendants' electrical infrastructure, low humidity, strong winds, and tinder-like dry vegetation—were forecasted and foreseeable by any reasonably prudent person. Such conditions and circumstances were therefore foreseeable to Defendants, who have special knowledge and expertise as electrical services providers.

E. Defendants' actions predictably led to plaintiffs' harm.

41. Defendants knew that any fire that started on August 8, 2023, in Maui County would be almost impossible to contain due to the high winds, dry conditions, high

fuel loads, topography, high energy release conditions, limited escape routes, and limited access for firefighters and emergency personnel.

42. The inevitable consequence of the fire that Defendants' intentional decisions caused over 80 deaths, and many people who were in the area that the fire impacted suffered serious, ongoing personal injuries. Maui County Mayor Richard T. Bissen Jr. said the death toll so far reflects only those who were found outside of buildings. A number of people were believed to have died in their vehicles attempting to flee from flames at their doorstep without warning.

43. The health impacts of wildfire smoke are on the same order of magnitude, or possibly even greater, than firefighting costs and property damage. This is in part because one of the main components of wildfire smoke are so-called PM2.5 particles, which are up to 10 times more harmful to humans than particles released from other sources, such as car exhaust. PM2.5 particles can pass through the nose and lungs, bypassing the body's defense mechanisms, and enter the bloodstream. From there they can harm the heart, lungs, and other vital organs, increasing the risk of stroke, heart attacks, and respiratory problems. People with certain preexisting conditions are particularly vulnerable.

44. Another inevitable consequence of the fire that Defendants' intentional decisions caused was significant property and environmental harm. Article XI, section 9 of the Hawai'i State Constitution, states: Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources. Flames, smoke, embers, ash, odors, gases, and airborne particles came into contact with, were deposited on, damaged, destroyed, and/or otherwise trespassed on Plaintiffs' real and personal property, causing very hazardous and unhealthy conditions, and interfering with Plaintiffs' right to enjoy their properties and the environment. This interference is ongoing, as Plaintiffs face an ongoing risk of harm to themselves and their property from flooding, debris flows, diminished drinking water quality, decreased soil productivity, and increased noxious weed spread – all caused by the Lahaina Fire.

45. The Lahaina Fire caused Plaintiffs to suffer substantial harm to their persons, interests, and property including, but not limited to, interference with their personal rights and interests in their use and quiet enjoyment of their real and personal properties; interference with their normal and usual activities; wrongful death; personal injuries including irritation of the eyes and respiratory tract, coughing, phlegm, wheezing, difficulty breathing, fear for their lives and personal safety, mental suffering, emotional distress, stress, anxiety, annoyance and inconvenience; medical bills; increased risks of emergency room visits, hospital admissions, and premature death; damage to and destruction of real property; damage to and loss of structures, personal property, and cherished possessions; out-of-pocket expenses directly and proximately incurred as a result of the fire; additional living expenses; evacuation expenses; uncompensated time engaged in recovery efforts; lost wages; loss of earning capacity; and loss of business income and goodwill, and various types of emotional distress, annoyance, inconvenience, disturbance, and mental anguish.

FIRST CLAIM FOR RELIEF
Negligence
(Against All Defendants)

46. All preceding paragraphs are incorporated into this claim for relief as if set forth herein.

47. Electricity is a dangerous instrumentality that poses an inherent risk to people and property. The provision of electrical services involves a peculiar and inherent risk of wildfire, and requires the exercise of increased care and precaution commensurate with and proportionate to that increased risk, so as to make the transport of electricity through a utility infrastructure safe under all circumstances and exigencies.

48. Defendants have special knowledge and expertise far beyond that of a layperson about the safe design, construction, operation, maintenance, and repair of their utility infrastructure. The provision of electrical services involves a peculiar and inherent danger and risk of wildfires.

49. Before and on August 8, 2023, Defendants had a non-delegable duty to apply

a level of care commensurate with, and proportionate to, the inherent dangers in designing, constructing, operating, maintaining, and repairing their utility infrastructure. This duty also required Defendants to maintain appropriate vegetation management programs for the control of vegetation surrounding Defendants' exposed power lines. This duty also required Defendants to consider the changing conditions of Defendants' electric utility infrastructure, as well as changing geographic, weather, and ecological conditions. This duty also required Defendants to take special precautions to protect nearby properties from wildfires caused by Defendants' electric utility infrastructures.

50. Additional regulations applicable to Defendants included, without limitation, the requirement that Defendants trim or remove vegetation to maintain clearances from electric supply conductors. Moreover, Defendants needed to have a vegetation management program and keep appropriate records to ensure that timely trimming is accomplished to keep the designated minimum clearances.

51. Defendants each breached their duties by, among other things:
- a. Failing to operate, maintain, and repair their electric utility infrastructure so that the systems would withstand the foreseeable risk of fires;
 - b. Failing to prevent powerlines from improperly sagging or making contact with metal or other powerlines;
 - c. Failing to properly inspect and maintain vegetation in proximity to their energized powerlines to mitigate the foreseeable risk of fire;
 - d. Failing to conduct reasonably prompt, proper, and frequent inspections of their electric utility infrastructure;
 - e. Failing to promptly deenergize their electric utility infrastructure during fire-prone conditions;
 - f. Failing to promptly deenergize their electric utility infrastructure after vegetation fell on their powerlines;
 - g. Failing to promptly inspect their powerlines after vegetation fell on them;
 - h. Failing to properly train and supervise employees and agents responsible for

maintenance and inspection of their electric utility infrastructure; and/or

- i. Failing to implement and follow regulations and reasonably prudent practices to avoid fire ignition.

52. Defendants knew of the extreme fire danger that the conditions immediately before August 8, 2023, created, and they breached their duties of reasonable care to Plaintiffs by failing to act reasonably despite that knowledge. The Lahaina Fire was a direct, legal, and proximate result of Defendants' breach of their duties of reasonable care to Plaintiffs.

53. Through their conduct described herein, Defendants violated rules and regulations applicable to them. Among other things, Defendants failed to deploy employees to survey their powerlines and ensure that none had been damaged or downed; failed to cut power to their lines once the fire started; and knowingly permitted the creation of circumstances where high winds were more likely to bring vegetation into contact with powerlines, where downed powerlines were more likely to have been damaged by falling vegetation or to have made contact with flammable vegetation, and where the reenergization of those lines without prior and proper inspection would create an extreme risk of a resulting wildfire.

54. The statutes and regulations that Defendants violated are intended to prevent the exact type of harm that Plaintiffs suffered because of Defendants' failure to comply with the statutes and regulations. Defendants' failure to comply with the statutes and regulations directly, legally, and proximately resulted in the Lahaina Fire, and was a substantial factor in causing Plaintiffs to suffer foreseeable harm to their persons, interests, and property.

55. Defendants acted with a conscious indifference to the probable and foreseeable consequences of their acts and omissions. In particular, following the devastating 2018 Camp Fire in California, Defendants publicly acknowledged that deenergizing powerlines in windy conditions was necessary to prevent devastating wildfires. Despite this knowledge, and despite their knowledge that Maui would be beset by windy conditions on

or immediately before August 8, 2023, Defendants chose not to de-energize their powerlines. Defendant's conscious indifference to the risk of wildfire on August 8, manifesting as, among other things, a decision not to de-energize their lines, amounts to arson under Hawai'i Revised Statute section 708-8254. Defendant's conscious indifference to the risk of wildfire on August 8, manifesting as, among other things, a decision not to de-energize their lines, was a substantial factor in causing the Lahaina Fire and Plaintiffs' resulting damages therefrom.

56. Plaintiffs each seek damages to be determined, on an individual basis, according to proof at trial, including, but not limited to real property, personal property, loss of income, and emotional distress damages associated with the burning of their home.

SECOND CLAIM FOR RELIEF
Trespass
(Against All Defendants)

57. All preceding paragraphs are incorporated into this claim for relief as if set forth herein.

58. On August 8, 2023, Plaintiffs were the owners, tenants, or lawful occupiers of real properties in Hawaii. Plaintiffs' possessory interests in their properties was exclusive.

59. Defendants negligently, recklessly, and/or intentionally allowed fire to ignite and spread out of control, which damaged Plaintiffs' properties. Flames, smoke, embers, ash, odors, gases, and airborne particles came into contact with, were deposited on, damaged, destroyed, and otherwise trespassed on Plaintiffs' real and personal property.

60. Defendants caused an intrusion on Plaintiffs' land that invaded Plaintiffs' interest in the exclusive possession of their land. This intrusion occurred as a result of Defendants' ultrahazardous activity, and/or as a result of their negligent, reckless, and/or intentional conduct.

61. Defendants knew that a trespass would result from their actions and failures to act. Defendants' actions and inactions in setting in motion the unauthorized entry and trespass were undertaken knowing that a trespass would result, and a trespass resulted from those actions and inactions.

62. Plaintiffs did not grant permission for any fire, smoke, embers, ash, odors, gases, and airborne particles to enter their properties.

63. This trespass was a substantial factor in causing Plaintiffs to suffer foreseeable harm to their persons, interests, and property.

64. Defendants acted with a conscious indifference to the probable and foreseeable consequences of their acts and omissions. In particular, following the devastating 2018 Camp Fire in California, Defendants publicly acknowledged that deenergizing powerlines in windy conditions was necessary to prevent devastating wildfires. Despite this knowledge, and despite their knowledge that Maui would be beset by windy conditions on or immediately before August 8, 2023, Defendants chose not to de-energize their powerlines. Defendant's conscious indifference to the risk of wildfire on August 8, manifesting as, among other things, a decision not to de-energize their lines, amounts to arson under Hawai'i Revised Statute section 708-8254. Defendant's conscious indifference to the risk of wildfire on August 8, manifesting as, among other things, a decision not to de-energize their lines, was a substantial factor in causing the Lahaina Fire and Plaintiffs' resulting damages therefrom.

65. Plaintiffs each seek damages to be determined, on an individual basis, according to proof at trial, including, but not limited to real property, personal property, loss of income, and emotional distress damages associated with the burning of their home.

THIRD CLAIM FOR RELIEF
Nuisance
(Against All Defendants)

66. All preceding paragraphs are incorporated into this claim for relief as if set forth herein.

67. On August 8, 2023, Plaintiffs were the owners, tenants, and/or lawful occupiers of real properties in the area to which the Lahaina fire spread. Plaintiffs had a possessory interest in real property that the Lahaina Fire damaged and destroyed, including the right to quiet use and enjoyment.

68. Plaintiffs also had the right to a clean and healthful environment, as defined

by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources. (Hawai'i Const., Article XI, section 9.)

69. Defendants owned, maintained, controlled, and/or operated the electric utility infrastructure that caused the Lahaina Fire.

70. Defendants' negligent, reckless, intentional and/or abnormally dangerous actions and inactions created conditions and/or permitted conditions to exist that (a) were harmful to health; (b) offensive to the senses; (c) an obstruction to the free use of property, so as to substantially interfere with the comfortable enjoyment of life and property; (d) unlawfully obstructed the free passage or use, in the customary manner, of public streets and highways; and (e) interfered with Plaintiffs right to a clean and healthy environment.

71. These conditions, including flames, smoke, embers, ash, odors, gases, and airborne particles, interfered with Plaintiffs' right to quiet enjoyment of their properties and right to a clean and healthy environment in a way unique to each Plaintiff.

72. These conditions also affected a substantial number of people at the same time.

73. At no time did Plaintiffs consent to Defendants' actions and inactions in creating these conditions.

74. An ordinary person would be reasonably annoyed and disturbed by Defendants' actions and inactions in creating these conditions.

75. Defendants realized or should have realized that the objectionable condition posed an unreasonable risk of fire that could spread and cause harm to Plaintiffs' persons, interests, property, and environment.

76. Defendants could have fully eliminated the risk of fire, at little or no cost, by deenergizing their powerlines during extremely dangerous conditions, and their failure to do so was negligent, reckless, abnormally dangerous, and/or intentional.

77. Defendants' actions and inactions in creating these conditions were a substantial factor in causing Plaintiffs to suffer foreseeable harm to their persons, interests, and property. Such harms were unique to each plaintiff and different from

damages suffered by other plaintiffs.

78. Plaintiffs suffered a special injury distinct from the general public because the Lahaina Fire injured them personally, and damaged and destroyed their real and personal property.

79. Whatever social Defendants' behavior may provide is outweighed by the harm their operations have imposed on Plaintiffs.

80. Defendants acted with a conscious indifference to the probable and foreseeable consequences of their acts and omissions. In particular, following the devastating 2018 Camp Fire in California, Defendants publicly acknowledged that deenergizing powerlines in windy conditions was necessary to prevent devastating wildfires. Despite this knowledge, and despite their knowledge that Maui would be beset by windy conditions on or immediately before August 8, 2023, Defendants chose not to de-energize their powerlines. Defendant's conscious indifference to the risk of wildfire on August 8, manifesting as, among other things, a decision not to de-energize their lines, amounts to arson under Hawai'i Revised Statute section 708-8254. Defendant's conscious indifference to the risk of wildfire on August 8, manifesting as, among other things, a decision not to de-energize their lines, was a substantial factor in causing the Lahaina Fire and Plaintiffs' resulting damages therefrom.

81. Plaintiffs each seek damages to be determined, on an individual basis, according to proof at trial, including, but not limited to real property, personal property, loss of income, and emotional distress damages associated with the burning of their home.

PRAYER FOR RELIEF

Plaintiffs seek:

- (a) Economic damages on an individual basis in an amount that will be proven at trial;
- (b) Noneconomic damages (sought only by plaintiffs who are natural persons) in an amount to be proven at trial and pursuant to HRS 663-10.9(2);
- (c) Punitive damages on all causes of action where such damages are permissible

- by law in an amount to be proven at trial;
- (d) Attorneys' fees, expert fees, consultant fees, and litigation costs and expenses, to the extent permitted, and/or pursuant to the Court's inherent and equitable power to award attorney fees;
 - (e) Pre-judgment interest to the extent permitted under HRS 636-16; and
 - (f) Other relief as the Court shall deem proper, all according to proof.

JURY TRIAL REQUEST

Plaintiffs request a jury trial on all causes of action for which a jury trial is available under the law.

Dated: August 14, 2023

Respectfully submitted,

/s/ Paul Starita

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